

Appl. No. 10/733,649
Amdt. Dated October 9, 2007
Reply to Office action of June 8, 2007

REMARKS/ARGUMENTS

Applicants and Applicants' representative appreciate the telephonic conference with the Examiner on August 8, 2007. The arguments presented herein are consistent with, and are in follow up to, the matters discussed at that conference. Claims 28-33 and 49-61 are currently pending in the present application. Claims 49-52, 54, and 62 are cancelled with this submission. No new claims are added. Upon this submission, claims 28-33, 53, and 55-61 shall remain pending in the application.

35 U.S.C. §112

Claims 49, 54 and 57 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. In particular, these three claims are rejected as failing to support the limitation "wherein at least the plurality of successive elastic elements in said arrangement are discrete severed sections of one elasticized strand." Applicants respectfully traverse this rejection. It is apparent from the context of the description and/or from a viewing of one or more of the Figures that the subject elastic elements are indeed derived from or originate from one elasticized strand.

In any event, to facilitate and expedite the present examination, Applicants have withdrawn claims 49 and 54 and amended independent claim 57 to replace the offending language. Applicants intend to resubmit claims consistent with these previously presented claims in a further and/or continuing application. Withdrawal of the outstanding §112 rejection is respectfully requested.

35 U.S.C. §102; §103

Claims 28-21, 53, 55 and 56 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2004/0243090 ("Toyoshima"). Claims 49-52, 54 and 57-61 are rejected under 35 U.S.C. §102(e) as being anticipated by Toyoshima or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Toyoshima. Applicants respectfully traverse each of the rejections based on Toyoshima.

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Upon a review of the cited Toyoshima reference, it becomes clear that this new reference is not any more relevant than previously cited references. In terms of elastic constructions, the reference discloses no more than what has been generally known in the art. The portion of the article indicated by reference numeral 8 (extendible side part 8) is mistakenly equated with the "fastening portion" of claim 28. The extendible side part 8 may qualify as a fastening portion under another's definition, but it is not a fastening portion as that term is defined by claim 28. As an initial matter, claim 28 requires a fastening portion that is attached to a central body in proximity to side margins (of the central body) and which has an elastic construction. Referring to FIG. 2 of Toyoshima, elastic elements 81 are indeed shown along the waist region of the article and in the "extendible side parts 8." The waist region is part of the central body, however, as is commonly known. Thus, extendible side part 8 is also part of the central body and cannot be attached to side margins of the central body. Applicants note that, according to claim 28, the central body is not formed by the core alone but formed, at least partly, by a topsheet, a backsheet, and the core.

Claim 28 also requires the fastening portion to have "a first side edge, a second side edge and a fastening portion centerline extending between the said side edges..." Claim 28 further requires an elasticized region between said first and second edges, said elastic construction being disposed in said elasticized region. Indeed, an elastic construction may be found in the extendible side part 8. In the Office Action, a side margin of the article is presented as a "first side edge." Applicants admit that this side margin could qualify structurally as a "side edge." The Office Action then presents a line or perhaps the margin of a sheet over the core as a second side edge. The line or margin is no side edge of any fastening portion, however. The line or margin may be attributed to a sheet over the core, and that sheet may have a side edge (physically evidencing its side margin or extent). The sheet is different, however, from the waist region or extendible side part 8 having the elastic construction and having the first side edge. The side edge of the sheet is not a second side edge of the waist region or of the extendible side part 8. Thus, the proposed combination of "first side edge" and "second edge" is not part of a discreet fastening portion (that has the elastic construction) nor does it define the physical extent or margin of that discreet fastening portion. It would appear that the substrate upon which the elastic elements 81 are situated, and which is partly defined by the "first side edge", is a central

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body or chassis having a corresponding "second side edge" on the opposite side of the core proximate items 51, 52. Thus, the Office Action fails to show a fastening portion having the requisite side edges and attachment to the side margins of a central body.

Claim 28 also requires the elastic elements to be spaced from said first side edge and from said central body to position the first non-elasticized region between the elasticized region and said central body. The elastics in the "extendible side parts 8" are not spaced from a first side edge and the central body. The elastics are situated, instead, in the central body.

Accordingly, independent claim 28 and dependent claims 29-33, 53, and 55-56 are patentable over the cited references. Withdrawal of the outstanding rejections of these claims is respectfully requested.

Independent claim 57 is also patentable over Toyoshima for one or more reasons as set forth above. In particular, the cited reference does not teach or suggest an elastic composite band that is attached to the central body and has a first side edge and a second side edge, and an elastic construction spaced inwardly from each said side edge, as required by claim 57. Toyoshima also fails to teach or suggest the elastic elements being spaced inwardly from a first side edge to form a non-elasticized region between the first side edge and the elastic elements. Accordingly, independent claim 57 and dependent claims 58-61 are patentable over Toyoshima and the previously cited references. Withdrawal of the outstanding rejections of these claims is respectfully requested.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Attached is a Credit Card Payment Form PTO-2038 in the amount of \$120.00 for the Petition for Extension of Time within the first month. If the appropriate Petition for an Extension of Time is not attached hereto (or any other Petition required of the application), this statement shall serve as Applicants' Petition to the U.S.P.T.O. The Commissioner is hereby authorized to charge any additional fees or credit any overpayments related to this

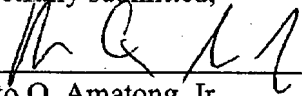
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response to Deposit Account No. **50-4228 (DSGI-1000US0)**, maintained by The Amatong Law Firm, PLLC.

The undersigned is available for consultation at any time, if the Examiner believes such consultation may expedite the resolution of any issues.

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Respectfully submitted,



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